



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

2661  
#32  
3/10/04  
PS

In re application of:

Confirmation No. 6843

Keith McCloghrie, et al.

Group Art Unit No.: 2661

Serial No.: 09/106,519

Examiner: Bob Phunkulh

Filed: June 29, 1998

For: SAMPLING PACKETS FOR NETWORK MONITORING

RECEIVED

Mail Stop Non-Fee Amendment  
Commissioner for Patents  
P. O. Box 1450  
Alexandria, VA 22313-1450

MAR 05 2004  
Technology Center 2600

**REPLY TO OFFICE ACTION**

Sir:

In response to the Office Action mailed December 1, 2003, the shortened statutory period for which runs until March 1, 2004, please reconsider the subject application in view of the following remarks.

Applicants thank the Examiner for allowing claims 3-6, 22-24, and 27-28. In this response, no claims have been amended, cancelled, or added. Claims 3, 5-7, and 9-44 are pending in the application. Each issue raised in the Office Action mailed December 1, 2003 is addressed hereinafter.

1. **Rejection of Claims 7, 10, 25-26, 29, 31 and 43-44 Under 35 U.S.C. § 103(a)**

The Office Action rejects claims 7, 10, 25-26, 29, 31 and 43-44 under 35 U.S.C. § 103(a) as allegedly unpatentable over U.S. No. 5,315,580 to Phaal (hereinafter "Phaal") in view of U.S. Pat. No. 5,559,801 to Lo (hereinafter "Lo"). Applicants respectfully traverse the rejections, because the Office Action fails to factually support any *prima facie* conclusion of obviousness.